

**DISTRICT OF COLUMBIA
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

SRJ CAPITAL, INC.
Respondent

Case No.: I-02-12024

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985 (D.C. Official Code §§ 2-1801.01 *et seq.*) and Title 20 Chapter 9 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (No. 12024) served June 7, 2002, the Government charged Respondent SRJ Capital, Inc. with a violation of 20 DCMR 900.1 which prohibits, with certain exceptions, motor vehicles from idling their engines for more than three (3) minutes while parked, stopped or standing. The Notice of Infraction charged that Respondent violated 20 DCMR 900.1 on June 5, 2002 while its truck was parked in the 300 block of Morse Street, N.E., and sought a fine of \$500.

On June 12, 2002, this administrative court received Respondent’s answer of Admit with Explanation pursuant to D.C. Official Code § 2-1802.02, along with a request for a reduction or suspension of the authorized fine. In the letter accompanying its answer, Respondent explained that it had not known of § 900.1 prior to the Notice of Infraction being issued. Respondent also explained that, on the date of the admitted violation, its truck had a malfunctioning starter, and

“we could not shut it off till [sic] the driver got back to the yard.” The truck’s starter was repaired later that day. Respondent also noted that it promptly advised its drivers of the requirements of § 900.1, and “have instructed my drivers not to stop . . . down there when they have a mechanical problem and can’t shut the truck off.”

By order dated June 25, 2002, I permitted the Government an opportunity to respond to Respondent’s answer and request within 14 calendar days of the order’s service date. No response was submitted by the Government.

II. Findings of Fact

1. By its plea of Admit with Explanation, Respondent SRJ Capital, Inc. has admitted violating 20 DCMR 900.1 on June 5, 2002 in the 300 block of Morse Street, N.E.
2. On June 5, 2002, Respondent idled the engine of its truck for more than 3 minutes while parked in the 300 block of Morse Street, N.E.
3. Respondent was not aware of the provisions of 20 DCMR 900.1 prior to its receipt of the Notice of Infraction.
4. On June 5, 2002, Respondent’s truck had a malfunctioning starter. As a result, Respondent’s driver left his truck running while in the 300 block of Morse Street, N.E. The truck’s starter was repaired later that day.
5. Respondent has accepted responsibility for its unlawful conduct.
6. Upon receipt of the Notice of Infraction, Respondent promptly advised all its drivers of the requirements of 20 DCMR 900.1.

7. There is no evidence in the record of a history of non-compliance by Respondent.

III. Conclusions of Law

1. Respondent violated 20 DCMR 900.1 on June 5, 2002. A fine of \$500 is authorized for a first violation of this regulation. 16 DCMR §§ 3201.1(b)(1) and 3224.3(aaa).
2. Respondent has requested a reduction or suspension of the authorized fine. Under these circumstances, a reduction, but not a suspension, of the fine is appropriate. Respondent's assertion that it had no prior knowledge of the proscriptions of 20 DCMR 900.1 is unavailing. As an entity doing business in the District of Columbia, Respondent is expected to be on notice of applicable District of Columbia laws, and is required to be in compliance with those laws – particularly those such as 20 DCMR 900.1 that have been in effect for years. *DOH v. Good's Transfer, Inc.*, OAH Final Order, I-00-10436 at 3-4 (Final Order, February 1, 2001); *see also Shevlin-Carpenter Co. v. State of Minnesota*, 218 U.S. 57, 68 (1910) (noting ignorance of law is no excuse, particularly where “[t]here is no element of deception or surprise in the law”).
3. Respondent's explanation regarding its truck's malfunctioning starter is equally unavailing. While this administrative court has recognized that certain exigent circumstances may mitigate a § 900.1 violation, *see, e.g., DOH v. Quality Tour Transport, Inc.*, OAH No. I-00-10052 at 3-4 (Final Order, November 3, 2000) (noting driver's demonstrated need to address a safety hazard was a “substantial mitigating factor” in admitted violation of § 900.1), no such exigent

circumstances exist in this case. Respondent offered no evidence as to how long its truck's starter had been in disrepair prior to the violation. *See DOH v. Brothers Express Transportation*, OAH No. I00-11253 at 4 (Final Order, July 9, 2002) (noting self-created emergencies cannot serve to mitigate liability under § 900.1). Moreover, at the time of the violation, Respondent's truck was not in the midst of traffic or facing some other type of emergency circumstance; it was merely parked in the 300 block of Morse Street, N.E. Under these facts, any possible inconvenience to Respondent due to its truck failing to re-start does not outweigh the public interest in enforcing the provisions of § 900.1. *See DOH v. Good's Transfer, Inc.*, OAH No. I00-10436 at 4 (Final Order, February 1, 2001) (noting that, absent the most exigent of circumstances, private interest cannot outweigh "the clear public interest in limiting the air pollution caused by excessive motor vehicle engine idling in the District of Columbia").

4. In light of Respondent's acceptance of responsibility, prompt efforts to apprise its drivers of the requirements of § 900.1, and the lack of evidence in the record of a history of non-compliance, however, the fine will be reduced to \$250. *See D.C. Official Code §§ 2-1802.02(a)(2) and 2-1801.03(b)(6); 18 U.S.C. § 3553; U.S.S.G. § 3E1.1.*

IV. Order

Based upon the foregoing findings of fact and conclusions of law, and the entire record of this case, it is, hereby, this ____ day of _____, 2002:

ORDERED, that Respondent shall pay a fine in the total amount of **TWO HUNDRED FIFTY DOLLARS (\$250)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (15 calendar days plus 5 days for service by mail pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that, if Respondent fails to pay the above amount in full within 20 calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1½ % per month or portion thereof, beginning with the date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1); and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real or personal property owned by Respondent pursuant to D.C. Official Code § 2-1802.03(i) and the sealing of Respondent's business premises or work sites pursuant to D.C. Official Code § 2-1801.03(b)(7).

FILED 08/30/02

Mark D. Poindexter
Administrative Judge